APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,634	12/17/2003	Lieven Leopold Albertine Trappeniers	Q78312	4745

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
GOODCHILD, WILLIAM J

ART UNIT	PAPER NUMBER
2433	

NOTIFICATION DATE	DELIVERY MODE
02/17/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/736,634	ALBERTINE TRAPPENIERS ET AL.
	Examiner	**Art Unit**
	WILLIAM J. GOODCHILD	2433

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>26 January 2011</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

       Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-15 and 18-19</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the evidence submitted fails to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☒ Other: <u>See Continuation Sheet.</u>

   /Vivek Srivastava/
   Supervisory Patent Examiner, Art Unit 2433

Continuation of 11. does NOT place the application in condition for allowance because: Arguments are towards amendments that are not entered. Therefore the arguments are moot.

Continuation of 13. Other: A - Applicant argues " Applicants respectfully submit that the finality of the Office Action is premature and therefore request withdrawal of that finality, pursuant to Section 706.07(d) of the Manual of Patent Examining Procedure (MPEP).".
A - The Examiner disagrees: The Examiners response in the arguments of the final office action are not new grounds of rejection, but, merely responding to applicants arguments to clarify previous responses, arguments etc. The reasoning nor art for the rejection of claim 7 has not changed.
B - Applicant argues " The outstanding Office Action as well as the preceding Office Action fail to specifically address all of the expressly recited features of the independent claims 8-15. For example, at least the following features of the independent claims are not addressed or mentioned: Claim 8: "Access system ... comprising: (a) a receiving processor-system-part that receives a configuration-signal ... (b) a configuring processor-system-part that ... configures ... said access system and ... said protocol couplings, and (c) a generating/forwarding processor- system part for generating/forwarding a service-information-signal..." Claim 10: "Service-selection-server ... comprising: (a) a receiving processor-system-part that receives a service-selection-signal ..., (b) a configuring processor-system-part that ... generates a configuration-signal and transmits said configuration-signal ..., and (c) a generating processor-system-part that generates a service-information-signal and transmits said service- information-signal..." Claim 12: "Terminal ... comprising: (a) a selecting processor-system-part that generates a service-selection-signal and transmits said service-selection-signal ..., (c) a receiving processor-system-part that receives a service-information-signal ..., and (d) a communicating processor-system-part that communicates with said service-providing-server or said another terminal ..." Claim 14: "Coupling-interface ... comprising: (a) a transceiving processor-system-part that receives a service-selection-signal ..., (c) a receiving processor-system-part that receives a service-information-signal ..., and (d) a communicating processor-system-part that communicates with said service-providing-server or said another terminal ...".
B - The Examiner Disagrees: Claim 1 discloses each of the parts / systems / components that are within each of the claims 8, 10, 12 and 14. Each of the independent claims discuss portions of the entire system as disclosed in claim 1 that generates a signal at a client device, sends the signal to a server, via a network card wtihin the system using a network protocol such as TCP/IP, etc, and sent over a wire or wireless, further, the modification / updating of the system is disclosed within claim 1.
C - Claim 1 recites in the preamble "the terminal is coupled to a coupling-interface able to communicate with the access system by protocol couplings." The Examiner states that the preamble is not given a patentable weight unless the limitation is described in the body of the claim. (See Office Action, page 9, paragraph 3). However, pursuant to 2111.02, "[i]f the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is 'necessary to give life, meaning, and vitality' to the claim, then the claim preamble should be construed as if in the balance of the claim." Pitney Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999). "Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation. See, e.g., Corning Glass Works" v. Sumitomo Elec. U.S.A., Inc., 868 F.2d 1251, 1257, 9 USPQ2d 1962, 1966 (Fed. Cir. 1989)." In the present case, FIG. 1 of the specification clearly illustrates the terminal coupled to the coupling interface. The coupling interface is coupled to the interface couplings which are coupled to the access system. Therefore, "the terminal is coupled to a coupling-interface able to communicate with the access system by protocol couplings" recited in the preamble limits the structure of claim 1 and must be treated as a claim limitation. Moreover, the very first paragraph in the specification states "The invention relates to a method for communication between a terminal with a coupling-interface and a providing-server via couplings for providing services defined by service parameters and via an access system for accessing a network." Claim 1 recites "transmitting said configuration-signal to said access system for configuring ... said access system and ... said protocol couplings, ... at said terminal and/or said coupling-interface, communicating with said service-providing-server or said other terminal via the protocol coupling." Based on these recitations, it is clear that the access system is coupled to the protocol couplings, in order to configure the protocol couplings. Further, the terminal is coupled to the protocol couplings, to communicate with "said service-providing-server." Therefore, "the terminal is coupled to a coupling-interface able to communicate with the access system by protocol couplings" recited in the preamble is "necessary to give life, meaning, and vitality" to the claim, and should be construed as if in the balance of the claim. Accordingly, it is improper for the Examiner to disregard recitations of the preamble of claim 1. It is respectfully requested the Examiner provide support in the cited prior art for the claimed "the terminal is coupled to a coupling-interface able to communicate with the access system by protocol couplings," or, otherwise, withdraw the rejection of claim 1.".
C - The Examiner disagrees: The Examiner has not disregarded the recitations of the preamble, Each of the items disclosed in the preamble are also disclosed within the claim (i.e. the terminal is coupled to a coupling interface able to communicate with the access system by protocol couplings, see body of claim 1, at said terminal, generating a service selection signal and transmitting said service selection signal from said terminal to a service selection server. Kanada shows terminals, servers, routers / switches and that they are connected within the network, as such, the terminals contain a way to connect to the network (via an access system) and the items disclosed within the preamble are either obvious or inherent within a computer or a network to one of ordinary skill in the art the time the invention was made [Note, this is not a new rejection, see office action, page 14, last paragraph continuing to page 15 (Examiners Note).
D - Applicant argues " Claim 1 recites "at said service-selection-server ... generating a configuration-signal and transmitting said configuration-signal to said access system for configuring ... said access system and ... said protocol couplings." The Examiner asserts that the claimed access system is connected via the network and that Kanada describes sending the policy change to the policy server and then to the network devices. (See Office Action, page 10, paragraph 2). The relevance of these arguments is not understood. According to claim 1, the configuration-signal is sent to the access system for configuring the protocol couplings. In Kanada, the policy is sent to the policy receiving section 801 of the server 121. (Paragraphs 37, 70). Interfaces 123, 124, and 125 receive secondary policies. The distributed policies are generated for the packets of the specific client devices. (Paragraph 39). Accordingly, the policy is not sent to configure the interfaces which are used for communications between the alleged access system and the coupling-interface, as claimed. Kanada does not teach or suggest at least "transmitting said configuration-signal to said access system for configuring ... said protocol couplings." Further, the Examiner appears to rely on Chen as allegedly teaching "transmitting said configuration-signal to said access system for configuring ... said protocol couplings" by disclosing "configuring a multiple protocol mobile station by changing the configurable parameters" (paragraphs

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39-40, and 44). (See Office Action, page 3, last paragraph). Chen describes a virtual machine interface (VMI) to allow a programmer to configure the mobile station. The hardware of mobile device is configured to work with various communication protocols by changing values of the parameters of table 207. (Paragraphs 9 and 39-40). Thus, Chen may be teaching changing parameters values to configure the mobile station protocol. However, Chen does not teach or suggest "transmitting said configuration-signal to said access system for configuring ... said protocol couplings," wherein the protocol couplings are used for communications between the access system and the coupling-interface, as claimed. The parameters are not the same as or an equivalent of the protocol couplings.".

D - The examiner disagrees: .The combination of Kanada and Chen discloses the configuration of a system based on policy rules in response to requests by a user or a program [Kanada, at least in paragraphs 41-45 and 65 and 70, Chen, paragraphs 39-40 and 44 (changing parameters)]. The instant specification does not limit (although examples are provided within the specification, both the claims and specification do not limit to the examples) what the parameters related to the protocol couplings are.

E - The Applicant argues " Claim 1 further recites: "at said service-selection-server, generating a service- information-signal and transmitting said service-information-signal to said terminal and/or said coupling-interface to inform about the configurations..., wherein said service-information signal defines a protocol coupling to be used." The Examiner appears to concede that neither Kanada, nor Chen teaches "transmitting said service-information-signal." The Examiner asserts that McDysan compensates for the deficiencies of these references by describing a reservation confirmation of a policy change. The Examiner also appears to assert that Chen teaches the claimed "service-information signal defines a protocol coupling to be used." (See Office Action, pages 3, 4, 11). As discussed above, Chen describes configuring hardware of mobile device to work with various communication protocols by changing values of the parameters of table 207. (Paragraphs 39-40). Chen does not teach or suggest "generating a service-information-signal, ... wherein said service-information signal defines a protocol coupling to be used." McDysan describes initiating the reservation by a customer by sending a message to PAD 40. (Col. 16, line 63 - col. 17, line 5). If the reservation service is authorized for this customer, the message is sent downstream. (Col. 17, lines 6-14). If the reservation is approved at the far end of the network, a reservation (RESV) message is returned. (Col. 17, lines 15-18). If the bandwidth requirements specified by the reservation (RESV) message are authorized for this customer, the reservation is approved. (Col. 17, lines 19-27). The reservation (RESV) message is returned to PAD 40 and to the customer. (Col. 17, lines 30-39). Accordingly, in the cited portions, McDysan describes a RESV message containing the bandwidth requirements and a confirmation message confirming the reservation (or, as interpreted by the Examiner, confirming the policy change). To the contrary, claim 1 recites "said service-information signal defines a protocol coupling to be used." That is, the service- information signal informs the terminal and/or the coupling-interface which protocol coupling is to be used. This confirmation message of McDylan is not the same as or an equivalent of the service-information signal which defines a protocol coupling to be used. Accordingly, Applicants respectfully submit that the proposed Examiner's combination of Kanada, Chen, and McDysan does not teach or suggest at least "Method for communication between a terminal and a service providing-server or another terminal via an access system ..., wherein the terminal is coupled to a coupling-interface able to communicate with the access system by protocol couplings, said method comprising ... (a) at said terminal, generating a service-selection-signal and transmitting said service-selection-signal from said terminal to a service-selection-server, (b) at said service-selection-server ... generating a configuration-signal and transmitting said configuration-signal to said access system for configuring ... said access system and ... said protocol couplings, (c) at said service-selection-server, generating a service- information-signal and transmitting said service-information-signal to said terminal and/or said coupling-interface to inform about the configurations made in ... the access system and in ... the protocol couplings, wherein said service-information signal defines a protocol coupling to be used." It is, therefore, respectfully submitted that claim 1 and dependent claims 2-6 and 18 are patentable over Kanada, Chen, and McDysan.".

E - The Examiner disagrees: As disclosed within Chen, a signal must be sent in order to change the parameters within the table [Chen, at least paragraphs 39-40 and 44]. Further McDysan discloses a policy change signal [McDysan, at least column 17, lines 15-18, 26-29 and 30-39].